

Tackling Visual Knowledge: The Story of the Yale Visual Law Project

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Words have long been privileged as tools for ordering knowledge across the academy and in the various institutions central to civic life. Images, by contrast, have typically been used as visual aids to words, illustrations on the side or works of art. Despite providing knowledge that is complementary to, but also different from, that accessible through words, images have experienced an inferior status not only in the academy—where text is seen as the legitimate way of presenting research—but across multiple institutions, among them the law.² The Visual Law Project (VLP) at the Yale Law School is a student-run collective that recognizes that ‘the visual medium is a unique set of analytic tools that are not available in text.’³ Consequently, it explores the relationship between the law and visual media through a year-long practicum, workshops, film screenings, master classes with international documentary filmmakers and lecture series. It also trains students in the craft of visual legal advocacy.

This essay briefly situates the story of VLP within the broader academic programs that tackle the particularities of visual knowledge and the value of critical media practices as legitimate modes of scholarship. Then it provides an overview of VLP’s work and contributions to legal pedagogy and practice. In doing so, this essay argues that understanding the knowledge provided by visual media on its own terms is becoming an important set of critical skills in the academy and law schools specifically.

I. The Turn to Visual Practices in the Academy

Contrary to words—as the assumed vehicles of reason that promote linear logic—images are characterized by sensory richness and relational thinking. Images move across the levels of evidentiary and emotional signification at once. They appeal to the imagination, exceeding their presumed representational modes. This fluidity of images has long complicated their sidelined academic and institutional status. In the current media moment, though, visual media account for the majority of global consumer

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² Richard K. Sherwin, ‘Visual Jurisprudence’ (2012) 57 *New York Law School Review* 137

³ Rebecca Wexler, personal communication, April 29, 2016.

traffic,⁴ penetrating into various institutional spaces and intensifying demands for visual literacy.

It is not so surprising, then, that interdisciplinary programs and initiatives that seek to address the full complexity of the kind of knowledge accessible through visuals have proliferated across the U.S. academy in the humanities and social sciences over the last decade. The multimodal research collective CAMRA at the University of Pennsylvania, the Program in Culture and Media at New York University, the Sensory Ethnography Lab at Harvard University, and the newly created Ph.D. program in Media Research and Practice at the College of Media, Communication and Information at the University of Colorado Boulder are among those innovative academic undertakings. Albeit different, they all share a common recognition of the value of visual knowledge that merits engagement on its own terms. They tackle, for example, the criteria through which film and video can count as scholarly research in their own right in the respective disciplines—anthropology, communication, education, media studies and sociology, among others.

Although for different purposes, law schools across the country have also turned to visual practices. The Visual Law Project at the Yale Law School is among growing numbers of programs and initiatives that tackle the unfolding role and potential of visual media in the law alongside the Penn Program on Documentaries & the Law, the Visual Persuasion Projects at New York University, and the Quinnipiac University School of Law, as well as the visual law initiatives at Stanford University and Harvard University. These institutions offer courses that interrogate the multifaceted relationship between legal judgment and visual meaning making through production and analysis. In doing so, they respond to growing needs for visual jurisprudence as ‘the newly emerging field that sets out to assess the aesthetic and ethical implications of visualizing law in practice and in theory. Visual rhetoric must now become part and parcel of law’s aspirational claim to truth-based judgment.’⁵ Why is visual jurisprudence so necessary in the current moment?

II. The Calls for Visual Jurisprudence

The law has long been an institution that considers words to be the best vehicle for transporting its logic. Like many social and political institutions, the law associates words with reason, systematic thinking, and deliberation, pushing aside the value of images as tools that work differently from words. As legal scholar Neal Feigenson writes, ‘the infrastructures of legal knowledge have been generally unreceptive to pictures.’⁶ When used, the law insists that visuals need words to anchor their legal

⁴ CISCO, ‘Visual Networking Index: Forecast and Methodology, 2015-2020’ (2015) Retrieved from <http://www.cisco.com/c/dam/en/us/solutions/collateral/service-provider/visual-networking-index-vni/complete-white-paper-c11-481360.pdf> [Last accessed March 15, 2017].

⁵ Richard K. Sherwin, ‘Visual Jurisprudence’ (2012) 57 *New York Law School Review* 164.

⁶ Neal Feigenson, ‘The Visual in Law: Some Problems for Legal Theory’ (2014) 10.1 *Law, Culture and the Humanities* 13.

meaning. Visuals and words, however, facilitate different processes of knowledge acquisition, and ‘now, as never before, [the law] is also about pictures displayed on screen.’⁷ Video, for example, can be used as evidence, advocacy, testimony, confession, closing argument, settlement, or as audio-visual record of trial proceedings (as in the case of the Supreme Courts of Canada, Brazil, the U.K. and international human rights courts like the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda).

As visual media enter into the law, their prominence necessitates training in visual jurisprudence. How images work, how they facilitate legal understanding, what practical and ethical considerations are needed to assess images and to render them legally meaningful is at the heart of the emerging and pressing calls for this kind of legal training. As Rebecca Wexler, the first VLP instructor and former director, writes:

*The increasing use of film and video as evidence in courtrooms has not been matched by a parallel increase in the critical visual literacy skills of legal practitioners. The resulting disconnect is dangerous, and may be the most urgent area of film and law scholarship today. Need for standards development exists not only in areas of authenticity, proof and evidentiary inclusion and exclusion practices, but also in measures of what is and is not constructed in video images.*⁸

Beyond evidence, visual media also permeate the law at the level of advocacy and analysis,⁹ demanding close scrutiny of the evolving roles and shapes of visual legal judgment. VLP offers one response to this growing need for visual jurisprudence.

III. Brief Overview of VLP’s Work

Valarie Kaur and Rebecca Wexler co-founded the Yale Visual Law Project during the academic year 2010/2011. The Information Society Project (ISP) at Yale Law School administers VLP, whose founding mission was built around the idea of visual advocacy. Coming to law school with a background in documentary filmmaking, Kaur reflected on her experience as a first year law student:

I saw stories all over the law, storytelling coursing through the life of our cases and arguments and briefs. The legal field is a site for narrative contestation, a battle of storytelling. But I also saw the absence of stories. The stories of people who most bear the consequences of the law, their faces and voices are often left out of legal analysis and debate. So that gave rise to the question: if law is about narrative contestation, and film best makes vivid buried stories, how can we

⁷ Neal Feigenson and Christina Spiesel, *Law and Display: the Digital Transformation of Legal Persuasion and Judgment* (New York University Press, 2009) xi.

⁸ Rebecca Wexler, ‘The Visual Law Project’ (2012). Retrieved from <https://prezi.com/ajr5mk4fuimq/the-visual-law-project/> [Last Accessed March 15, 2017].

⁹ Rebecca Wexler, personal communication, April 29, 2016.

*better use film in the legal field, both inside and outside the courtroom, to advance the public interest?*¹⁰

The rising importance of the visual in the law—both inside and outside the courtroom—requires understanding the theories and practices of visual culture. VLP seeks to train students in the nuances of audio-visual modes of information relay and storytelling. Reading groups discuss the growing interdisciplinary scholarship on visual media and legal judgment, incorporating analysis of how images work in the wider culture and how documentary film and video engage audiences. They are supplemented with workshops on the various aspects of documentary filmmaking, such as directing, interviewing, camera, lighting and editing.

Rebecca Wexler also came to law after working as a documentary filmmaker for seven years. She notes, ‘the visual medium has a different type of traction in the public sphere, so it is a way to learn a new form of rhetoric that can help with legislative advocacy.’¹¹ Visual legal advocacy rests upon the notion that documentary film and video provide a platform to humanize the stories of injustice and to render legal knowledge accessible both to the communities affected by the issue and to the wider public. Documentaries can communicate legal knowledge outside of its technical existence in courts and documents. Learning about visual law, therefore, can provide an important set of skills. This was key to why Helen Li, a third year law student and this year’s VLP director, came to Yale:

*VLP was one of the primary reasons I came to Yale Law School. I was interested in the ability of imagery and visual context to bring the law out of the shadows created by complex statutes and legalese. For the average citizen, law exists only in casebooks, regulations, and expensive law firms. I wanted to work with other students seeking to understand the laws that affect every fabric of our lives and make those laws open and transparent on the screen.*¹²

Driven by this vision, VLP has produced numerous documentaries over the years about wide-ranging legal issues, including immigration, detention centers, prison reforms, privacy and surveillance.¹³

Honorable Discharge?, for example, tells the story of how Arnold Giammarco, a non-citizen veteran of the U.S. Army, was deported from the U.S. The documentary begins with the testimony of Giammarco’s wife: ‘People go: ‘What? They can do that? They really do that?’ And I’m like, yes, they really do that. They did it to us.’ Throughout the documentary, the viewer finds out about the difficulties that

¹⁰ Valarie Kaur, ‘At Film Premiere, Project Founder Valarie Kaur Talks About Our Grand Experiment’ (2011). Retrieved from <http://yalevisuallawproject.org/2011/06/29/our-grand-experiment/> [Last Accessed March 15, 2017].

¹¹ Rebecca Wexler, personal communication, April 29, 2016.

¹² Helen Li, personal communication, September 12, 2016.

¹³ Most documentaries can be accessed at the VLP’s Vimeo channel: <https://vimeo.com/user7522770>

Giammarco's wife and daughter experience because their family has been torn apart. Their personal stories are contextualized with the information provided by Michael Wishnie, Director of Jerome N. Frank Legal Services Organization at Yale Law School, who has worked on this case.

The Worst of the Worst: Portrait of a Supermax is a 30-minute-long documentary that depicts Connecticut's supermax prison, where some inmates are held in solitary confinement for extensive periods. It weaves together testimonies by inmates and correctional officers along with interviews with a range of experts and administrators. It includes Misael's voice-over-narration which describes his experience of being held in solitary confinement for a total of 16 months:

You sleeping on other people's blood and dirty stuff. You can't talk through the doors. You can't speak to other inmates. I started talking to the wall. I started seeing stuff. You can hear these voices and literally hear them and...they talk to you and tell you to do things and...you go and do them and not realize that you're going, that you're going through this pain, and that's when I started cutting myself, biting myself. And it all happens because of that cell because of that cell.

Misael's testimony captures the viewer's attention through its appeal to the emotions. Through his testimony, solitary confinement moves away from being an abstract concept to a vivid experience of someone's trauma. Video combines sound and images. The testimony is heard while a series of images flickers on the screen, including close-up shots of blurry images and an extreme close-up of a man's face whose eyes are closed. Ultimately, it is the viewer who needs to infer meaning from the relationship between the testimony and the images.

Video, indeed, provides knowledge that works by association and appeals to the senses. It engages the viewer's emotions and imagination. Legal scholar Regina Austin draws a parallel between how documentaries and the law construct knowledge. She writes,

In both law and documentary film, reality or the truth of the real world is mediated by the senses; essentially the eyes see what they want to see and the ears hear what they want to hear. The object of both good legal practice and good documentary practice is to expand the field of sight and sound to the realm of what justice requires.¹⁴

This understanding underpins how VLP trains students in visual legal advocacy. VLP sees video as an important vehicle for justice, teaching students how to embrace visual storytelling while still carefully crafting legal arguments. Reflecting

¹⁴ Regina Austin, 'The Next "New Wave": Law Genre Documentaries, Lawyering in Support of the Creative Process, and Visual Legal Advocacy' (2006) 16 *Fordham, Intell. Prop. Media and Ent. L.J.* 844.

on her experience working on the documentary *Stigma: Stop and Frisk in New York City*, Aeryn Palmer wrote,

*The law is not as resistant to creative interpretation as I had initially believed it would be. Making a legal argument on film...is difficult. But showing the consequences of the law – that’s doable...film is about all the things that the law as written and executed ignores...Film might not be suited to arguing the details, but it is very powerful for conveying what the law really means.*¹⁵

Palmer’s comments reiterate that words and images compliment the law’s quest for truth and justice. Law students, however, spend much of their time learning the craft of legal writing and little about visual modes of meaning making. As a result, initiatives like VLP are of utmost importance to legal pedagogy in the current moment.

Over the years, VLP has expanded its curriculum and approach to visual knowledge. This year, for example, it has been working to enhance its collaboration with the legal clinics at the Yale Law School on visual legal advocacy projects. VLP students also continue to work across disciplines with artists and social justice advocates throughout Yale and New Haven. Furthermore, VLP has been strengthening its training in how visual knowledge works, how it is used in the law and how to better harness the power of the visual. To that end, it hosted a lecture series on visual jurisprudence in the Fall 2016, and organized a reading group this Spring. VLP now also features workshops and master classes that go beyond the focus on audiovisual media, examining the intersection between the law and visual culture more broadly. The motivating factor remains that law students can greatly benefit from tackling the nuances and the value of visual knowledge for legal theory and practice.

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¹⁵ Aeryn Palmer, end-of-the-year-reflections, April 8, 2011.